

P20770B

STATE OF CALIFORNIA  
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY  
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

AMENDED PERMIT 20770B

Application 30049 of Hidden Valley Community Services District  
19400 Hartman Road  
Middletown, CA 95461-8371

filed on December 16, 1991, has been approved by the State Water Resources Control Board (SWRCB)  
SUBJECT TO PRIOR RIGHTS and to the limitations and conditions of this permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source of water

Source:  
Putah Creek Underflow

Tributary to:  
Yolo Bypass

within the County of Lake

2. Location of point of diversion

By California Coordinate System of 1927 in Zone 2	40-acre subdivision of public land survey or projection thereof	Section (Projected)*	Township	Range	Base and Meridian
(1) North 406,150 feet and East 1,841,700 feet	NW ¼ of NW ¼	29*	11N	6W	MD
(2) North 406,500 feet and East 1,841,900 feet	NW ¼ of NW ¼	29*	11N	6W	MD
(3) North 407,100 feet and East 1,842,200 feet	NW ¼ of NW ¼	29*	11N	6W	MD
(4) North 407,700 feet and East 1,842,500 feet	SW ¼ of SW ¼	20	11N	6W	MD
(5) North 406,050 feet and East 1,841,150 feet	NE ¼ of NE ¼	30	11N	6W	MD

3. Purpose of use	4. Place of use	Section (Projected)*	Township	Range	Base and Meridian	Acres
Municipal	Units 1-3 and 6-11 of Hidden Valley Lake Subdivision within the W ½ of T11N, R6W and projected Sections 12 and 13, T11N, R7W and sewage treatment plant within SW ¼ of SE ¼ of projected Section 30, T11N, R6W				MD	
Fish and Wildlife Preservation	Putah Creek in the vicinity of the former U.S. Geological Survey Guenoc streamflow gage site.					

The place of use is shown on map filed with the SWRCB.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 4.4 cubic feet per second (cfs) to be diverted from January 1 to December 31 of each year. The maximum amount diverted under this permit shall not exceed 1,649 acre-feet per year (afa).

The total quantity of water diverted under this permit and License 13527A issued pursuant to Application 30049 shall not exceed 2,300 afa.

(0000005A)  
(0000114)

6. Construction work and complete application of the water to the authorized use shall be prosecuted with reasonable diligence and completed by December 31, 2011.

(0000009)

7. During the season specified in this permit, the total quantity and rate of water diverted and used under this permit and under permittee's claimed existing right for the place of use specified in the permit shall not exceed the quantity and rate of diversion and use specified in this permit. If the permittee's claimed existing right is quantified at some later date as a result of an adjudication or other legally binding proceeding, the quantity and rate of diversion and use allowed under this permit shall be the net of the face value of the permit less the amounts of water available under the existing right.

Permittee shall forfeit all rights under this permit if permittee transfers all or any part of the claimed existing right for the place of use covered by this permit to another place of use without the prior approval of the SWRCB.

Permittee shall take and use water under the existing right claimed by permittee only in accordance with law.

(0000021B)

8. The equivalent of the authorized continuous flow allowance for any 30-day period may be diverted in a shorter time, provided there is no interference with other rights and instream beneficial uses, and provided further that all terms and conditions protecting instream beneficial uses are observed.

(0000027)

9. Permittee shall consult with the Division of Water Rights (Division) and develop and implement a water conservation plan or actions. The proposed plan or actions shall be presented to the SWRCB for approval within one year from the date of this permit or such further time as, for good cause shown, may be allowed by the Board. A progress report on the development of a water conservation program may be required by the Board at any time within this period.

All cost-effective measures identified in the water conservation program shall be implemented in accordance with the schedule for implementation found therein.

(0000029B)

10. If it is determined after permit issuance that the as-built conditions of the project are not correctly represented by the map(s) prepared to accompany the application, permittee shall, at his expense have the subject map(s) updated or replaced with equivalent as-built map(s). Said revision(s) or new map(s) shall be prepared by a civil engineer or land surveyor registered or licensed in the State of California and shall meet the requirements prescribed in section 715 and sections 717 through 723 of the California Code of Regulations, Title 23. Said revision(s) or map(s) shall be furnished upon request of the Chief, Division of Water Rights.

(0000030)

11. Permittee shall implement the provisions of the Groundwater Monitoring plan prepared by consultant James C. Hanson, dated February 1997, and approved by the Chief, Division of Water Rights by letter dated April 25, 1997. Permittee shall prepare an annual report summarizing the information collected under the plan and demonstrating compliance with the terms and conditions of this permit. The report shall display in tabular or graphical form daily flow records from the Guenoc gage (or twice monthly Putah Creek flows if this gage is discontinued), amount of supplemental water provided for each intervening period, and any instantaneous flow measurements made during periods when target flows are not achieved. The annual report shall also list static water levels at all points of diversion, as well as water levels in other monitoring wells or piezometers specified in the Groundwater Monitoring Plan. A copy of the annual report shall be submitted to the Chief of the Division of Water Rights by December 31 of each year.

(0110700)

12. The SWRCB reserves jurisdiction to modify the terms and conditions of this permit should monitoring of the water levels in the Coyote Valley groundwater basin indicate that long-term overdraft of the basin is occurring. Action by the Board will be taken only after notice to interested parties and opportunity for hearing.

(0000600)

13. Permittee shall continue the joint funding agreement between permittee, Callayomi County Water District, and Solano County Water Agency for operation of the Putah Creek near Guenoc gaging station by the U.S. Geological Survey (USGS), posting of real time discharge measurements on the USGS Internet website, and publishing of data in the annual Water-Data Report.

In the event funding of this gage is no longer feasible, permittee shall either install and properly maintain a device, acceptable to the Chief, Division of Water Rights, which is capable of measuring the flow of Putah Creek at the Guenoc gage site, or otherwise make instantaneous measurements of flow at this point. Such devices or measurements shall employ instrumentation and methodology comparable with USGS streamflow measurement standards.

Permittee shall make and record flow measurements twice a month, on or about the first and fifteenth of each month, starting on July 15 and ending on October 15 of each year.

(0060500)

(0090500)

14. Permittee shall provide supplemental water downstream from the points of diversion to augment low flows in Putah Creek. Said supplemental water shall be introduced at a point on Putah Creek located approximately North 406,600 feet and East 1,848,100 feet, California Coordinate System, Zone 2, being within the NW  $\frac{1}{4}$  of the NW  $\frac{1}{4}$  of projected Section 28, T11N, R6W, MDB&M, as shown on the map entitled "Hidden Valley Lake Community Services District – Supplemental Water Release Location". The point of supplemental water discharge may be changed upon written approval of the Chief, Division of Water Rights.

For the period July 15 to October 31 of each year, permittee shall make-up the difference between actual discharge, as measured at the site of the former Guenoc USGS gaging station on Putah Creek at Guenoc as shown on the 1958 USGS 7.5 minute series quadrangle map for Middletown, California, and the median daily discharge listed below:

Median Daily Discharge for Putah Creek at Guenoc, 1954-1975, (all amounts in cfs)

<u>July</u>	<u>August</u>	<u>September</u>	<u>October</u>
4.7	1.7	0.9	0.6

Permittee shall not be required to provide supplemental water at a rate greater than two cubic feet per second.

Permittee shall maintain a measuring device, acceptable to the Chief of the Division of Water Rights, which is capable of measuring both the instantaneous rate and the total amounts of supplemental water discharged to Putah Creek.

(0260900)  
(0100500)

15. The SWRCB reserves jurisdiction to modify the terms and conditions should monitoring of the water levels in the Coyote Valley groundwater basin indicate that long term overdraft of the basin is occurring. Action by the Board will be taken only after notice to interested parties and opportunity for hearing.

(0000600)

16. Permittee shall comply with the following provisions which are derived from the Condition 12 Settlement Agreement dated March 10, 1995 (Agreement) pursuant to the Sacramento County Superior Court, Judicial Council Coordination Proceeding No. 2565:

(1) Permittee is hereby put on notice that the Sacramento County Superior Court, Judicial Council Coordination Proceeding No. 2565, has retained jurisdiction over the parties and, upon application by the watermaster, has the right to temporarily enjoin the diversion of water under this permit for noncompliance with the terms of the Agreement.

(2) Diversion of water under this permit shall be subject to the watermaster appointed by the court to enforce the terms of the Agreement. The permittee shall be responsible for partial payment of the watermaster costs in accordance with the terms of the Agreement.

(3) Permittee shall maintain a device, satisfactory to the SWRCB, which is capable of measuring water directly diverted under this permit. A satisfactory device includes: For Pumping Stations: (1) In-line flow meter having instantaneous and total flow reading capability, or (2) Proof of a pump test performed within the last 5 years together with official monthly power consumption records for the electric meter serving the pump. For Gravity

Diversions: A weir, flume, or other flow measuring device that is properly installed, or a flow-rating curve established by volumetric measurements.

(4) Permittee shall maintain monthly records of direct diversion from March 1 to July 15 of each year, or such other period as may be specified with written notice to the permittee by the watermaster.

(5) Permittee shall report to the watermaster annually, all diversions under this permit by September 1 of each year on forms approved by the watermaster.

(6) Permittee shall allow the watermaster reasonable access to the project covered by this permit to inspect measuring equipment and to observe compliance with these permit terms and conditions, upon 48-hour prior notice and upon such reasonable conditions as permittee may prescribe.

(7) Permittee is hereby put on notice that there may be years when diversion of water under this permit will not be within the reservation of water established for the Putah Creek watershed upstream of Monticello Dam, as set forth in the Agreement and that in those years no water may be available under this permit, and that releases of stored water may be required.

(8) Permittee is hereby put on notice that the waiver of priority granted by Reclamation and Solano County Water Agency provides that in the event Allowable Depletion is exceeded in any year, water diverted to storage that year shall be released and/or direct diversions shall be curtailed during the ensuing season(s), when applicable, to the extent necessary to bring the Allowable Depletion into compliance, in the following order:

a. All amounts directly diverted and/or diverted to storage by holders of Post-Reservation Water Rights in excess of 120 percent of that water right holder's previous five-year average, in reverse order of water right priority.

b. All amounts directly diverted and/or diverted to storage by holders of Post-Reservation Water Rights above the previous five-year average diversion, in reverse order of priority.

c. All remaining water directly diverted and/or diverted to storage that year by holders of Post-Reservation Water Rights in reverse order of priority.

(9) In any year in which Annual Depletion exceeds Allowable Depletion, if Lake Berryessa: (1) does not drop below 640,000 acre-feet in storage as of May 1, permittee shall have three years, starting in the next Accumulation Season, to make up or repay permittee's excess diversions; or (2) does not reach 640,000 acre-feet of storage as of May 1, permittee shall have one year, starting in the next Accumulation Season, to make up or repay permittee's excess diversions. In the event that Lake Berryessa spills at any time prior to full payback of excess depletion, permittee shall be excused from any further obligation for repayment of the overage.

(10) Permittee shall provide watermaster prior notice of any repayment. Repayment may be made either by releases from storage, curtailment of direct diversion, or by the provision of water from other sources.

(11) Permittee shall notify the watermaster of any change in ownership of land, changes in the water right, or changes in address related to the permit.

(12) Permittee is hereby put on notice of permittee's right, upon reasonable prior notice, to inspect and to copy, at permittee's own expense, all records and reports of the watermaster.

(13) Solely for purposes of administering Post-Reservation Depletion, the average annual depletion assigned to this project is 1,148 acre-feet per annum as calculated by the watermaster using information described in Exhibit C of the Condition 12 Settlement Agreement. Permittee shall notify the watermaster of any change in crop type, acreage irrigated, and irrigation method. Any change in water usage which results in an increase in average annual depletion of more than 10 percent for non-weather related reasons, as determined by the watermaster, will require filing a new water right application. (Agreement pp. 13-15, Exhibit E)

Inclusion in the permit of certain provisions of this Agreement shall not be construed as disapproval of other provisions of the Agreement or as affecting the enforceability, as between the parties, of such other provisions insofar as they are not inconsistent with the terms of this permit.

(0000024)

The SWRCB shall have continuing authority under Article X, Section 2 of the California Constitution, Water Code Sections 100 and 275, and the common law public trust doctrine over this permit to delete, revise, amend, or adopt new terms or conditions to: (1) implement the March 10, 1995, Condition 12 Settlement Agreement and any amendments to the agreement and (2) make the terms or conditions consistent with any order of the superior court. No action shall be taken pursuant to this paragraph unless the SWRCB provides notice to affected parties and provides an opportunity for a hearing.

(0000012)

(0220086)

17. No water shall be used under this permit until permittee has filed a report of waste discharge with the California Regional Water Quality Control Board, Central Valley Region, pursuant to Water Code Section 13260, and the Regional Board or SWRCB has prescribed waste discharge requirements or has indicated that waste discharge requirements are not required. Thereafter, water may be diverted only during such times as all requirements prescribed by the Regional Board or State Board are being met. No point source discharges of waste to surface water shall be made unless waste discharge requirements are issued by a Regional Board or the State Board. A discharge to ground water without issuance of a waste discharge requirement may be allowed if, after filing the report pursuant to Section 13260:

- (1) the Regional Board issues a waiver pursuant to Section 13269, or
- (2) the Regional Board fails to act within 120 days of the filing of the report.

No permittee shall be required to file a report of waste discharge pursuant to Section 13260 of the Water Code for percolation to ground water of water resulting from the irrigation of crops.

(0290101)

18. This permit is specifically subject to the prior right of Magoon Estate Limited under appropriation issued pursuant to Application 24296.

(0160800)

19. Should any buried archeological materials be uncovered during project activities, such activities shall cease within 100 feet of the find. Prehistoric archeological indicators include: obsidian and chert flakes and chipped stone tools; bedrock outcrops and boulders with mortar cups; and locally darkened midden soils containing some of the previously listed items plus fragments of bone and fire affected stones. Historic period site indicators generally include: fragments of glass, ceramic and metal objects; milled and split lumber; old trails; and structure and feature remains such as building foundations and dumps. The Chief of the Division of Water Rights shall be notified of the discovery and a professional archeologist shall be retained by the applicant to evaluate the find and recommend appropriate mitigation. Project related activities in the area of the find shall resume only after the completion of the recommended mitigation, as approved by the Chief of the Division of Water Rights.

(0000215)

**ALL PERMITS ISSUED BY THE SWRCB ARE SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:**

- A. The amount authorized for appropriation may be reduced in the license if investigation warrants.  
(0000006)
- B. Progress reports shall be submitted promptly by permittee when requested by the SWRCB until a license is issued.  
(0000010)
- C. Permittee shall allow representatives of the SWRCB and other parties, as may be authorized from time to time by said SWRCB, reasonable access to project works to determine compliance with the terms of this permit.  
(0000011)
- D. Pursuant to California Water Code sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of SWRCB in accordance with law and in the interest of the



public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the SWRCB may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the SWRCB determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the SWRCB also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the SWRCB determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest; and is necessary to preserve or restore the uses protected by the public trust.

(0000012)

- E. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the SWRCB if, after notice to the permittee and an opportunity for hearing, the SWRCB finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the SWRCB finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

(0000013)

- F. This permit does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). If a "take" will result from any act authorized under this water right, the permittee shall obtain authorization for an incidental take prior to construction or operation of the project. Permittee shall be responsible

for meeting all requirements of the applicable Endangered Species Act for the project authorized under this permit.

(0000014)

- G. Permittee shall maintain records of the amount of water diverted and used to enable the SWRCB to determine the amount of water that has been applied to beneficial use pursuant to Water Code Section 1605.

(0000015)

- H. No work shall commence and no water shall be diverted, stored or used under this permit until a copy of a stream or lake alteration agreement between the State Department of Fish and Game (DFG) and the permittee is filed with the Division. Compliance with the terms and conditions of the agreement is the responsibility of the permittee. If a stream or lake agreement is not necessary for this permitted project, the permittee shall provide the Division a copy of a waiver signed by DFG.

(0000063)

*This permit is issued and permittee takes it subject to the following provisions of the Water Code:*

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

#### STATE WATER RESOURCES CONTROL BOARD



**Edward C. Anton, Chief  
Division of Water Rights**

**Dated:**

11/29/07